

SENATE BILL No. 128

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-14.

Synopsis: Due process provisions for police and firefighters. Specifies due process provisions for a police officer or firefighter who is the subject of a formal complaint or an internal investigation.

Effective: July 1, 2003.

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January 7, 2003, read first time and referred to Committee on Pensions and Labor.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

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SENATE BILL No. 128



A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-2-14 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2003]:
- 4 **Chapter 14. Due Process Provisions for Law Enforcement**
- 5 **Officers and Firefighters**
- 6 **Sec. 1. As used in this chapter, "employer" means a:**
- 7 **(1) law enforcement agency; or**
- 8 **(2) fire department;**
- 9 **that employs a public safety officer.**
- 10 **Sec. 2. As used in this chapter, "internal investigation" means**
- 11 **an investigation that:**
- 12 **(1) is conducted by an employer;**
- 13 **(2) concerns the conduct or activities of a public safety officer;**
- 14 **(3) is based on information or accusations provided to the**
- 15 **employer; and**
- 16 **(4) is conducted to determine whether the public safety officer**
- 17 **violated a:**



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- (A) rule of the employer; or
- (B) criminal or civil law.

Sec. 3. As used in this chapter, "investigator" means a person who is designated by an employer to investigate:

- (1) a formal complaint filed against a public safety officer; or
- (2) allegations or information that forms the basis of an internal investigation.

Sec. 4. As used in this chapter, "public safety officer" means either of the following:

- (1) A law enforcement officer (as defined in IC 5-2-1-2).
- (2) A full-time, fully paid firefighter.

Sec. 5. A public safety officer is required to appear before an investigator for interrogation only after:

- (1) a person has filed a formal complaint against the public safety officer or an employer has initiated an internal investigation against the public safety officer; and
- (2) the employer has notified the public safety officer of the formal complaint or internal investigation.

Sec. 6. A formal complaint must:

- (1) be in writing;
- (2) be signed and sworn to by the person who makes the allegation against the public safety officer; and
- (3) set forth a concise statement of the facts of the occurrence upon which the formal complaint is based, including the:
 - (A) date;
 - (B) time; and
 - (C) location;
 of the occurrence.

Sec. 7. An employer may conduct an internal investigation based on a formal complaint without requiring the person who filed the complaint to reveal the person's identity.

Sec. 8. At a reasonable time before an interrogation of a public safety officer, an employer shall give the public safety officer the following:

- (1) A copy of the formal complaint filed against the public safety officer.
- (2) Any statements by persons accusing the public safety officer of conduct or activities that form the basis of the formal complaint or internal investigation.

Sec. 9. Before an interrogation of a public safety officer may begin, an employer must inform the public safety officer both orally and in writing that:

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1 (1) the public safety officer may refuse to be interrogated, but
 2 refusal may subject the public safety officer to disciplinary
 3 proceedings; and

4 (2) if the public safety officer is ordered to respond to the
 5 interrogation:

6 (A) the public safety officer may respond to the
 7 interrogation; and

8 (B) any statements made by the public safety officer during
 9 the interrogation may not be used against the public safety
 10 officer in a subsequent criminal proceeding.

11 Sec. 10. The interrogation of a public safety officer shall be
 12 conducted at:

13 (1) the employer's office; or

14 (2) an alternate location agreed upon by the public safety
 15 officer and the investigator.

16 Sec. 11. Except as provided in section 12 of this chapter, an
 17 interrogation shall be conducted:

18 (1) when the public safety officer is scheduled for duty; or

19 (2) at a time agreed upon by the public safety officer and the
 20 investigator.

21 Sec. 12. If the interrogation of a public safety officer is based on
 22 an allegation of criminal conduct, the interrogation may be
 23 conducted at any time.

24 Sec. 13. If the interrogation of a public safety officer is based on
 25 an allegation of criminal conduct, the investigator conducting the
 26 interrogation shall record the interrogation. Upon the request of
 27 the public safety officer, the investigator shall:

28 (1) prepare a transcript of the recording; and

29 (2) provide the transcript to the public safety officer at no cost
 30 to the public safety officer.

31 Sec. 14. A public safety officer who is interrogated may record
 32 the interrogation.

33 Sec. 15. (a) Except as provided in subsection (b), a public safety
 34 officer may have an attorney or another representative of the
 35 public safety officer's choice present during an interrogation of the
 36 public safety officer.

37 (b) If the public safety officer delays the interrogation session
 38 for more than twenty-four (24) hours because of the unavailability
 39 of the public safety officer's attorney or chosen representative, the
 40 public safety officer may be subject to disciplinary proceedings.

41 Sec. 16. An employer may not require a public safety officer to
 42 submit to either of the following tests for the purpose of

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1 **determining veracity or for any other purpose:**
2 **(1) A lie detector test.**
3 **(2) A psychological stress evaluation.**
4 **Sec. 17. If a public safety officer voluntarily consents to a test**
5 **referred to in section 16 of this chapter, the results of the test may**
6 **not be used against the public safety officer in a subsequent**
7 **disciplinary proceeding.**

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